

KAJITA
Appl. No. 10/801,001
June 18, 2007

AMENDMENTS TO THE DRAWINGS

Please replace the sheet of drawings with Figures 1 and 2 with the attached replacement sheet with Figures 1 and 2. Please replace the sheet of drawings with original Figures 4 and 5 with the attached replacement sheet with Figures 4 and 5.

Attachment: Replacement Sheet(s)

REMARKS/ARGUMENTS

Reconsideration and allowance in view of the foregoing amendment and the following remarks are respectfully requested.

The Examiner argued that the Information Disclosure Statement filed August 5, 2005 failed to comply with 37 CFR 1.98(a)(2) because German patent 676147 was not submitted. It is respectfully noted that the German Patent 676147 was submitted to the Patent Office with the Information Disclosure Statement of August 5, 2004. However, do to a scanning error at the Patent Office, that document was scanned together with German Patent Publication 932283.

Therefore, the Examiner will observe that of the foreign references submitted on August 3, 2004, two are indicated as having 8 pages. One of those is 8 page reference German 19842016. The other 8 page foreign document is both German Patent Publication No. 932283 (pages 1-4 thereof) and German Patent Publication 676147 (pages 5-8 thereof). Therefore, the document was properly and timely submitted and should have been considered.

Regarding German Patent Document 932283 and German Patent Document 19842016, the Examiner has altered the art listing to characterize these documents as Dutch. However, the documents are German. "Deutsch" is the German word for "German". "Dutch" on the other hand refers to Holland/The Netherlands. "Deutsch" does not mean "Dutch".

It is therefore respectfully requested that the original art listing be fully initialed, without alteration of the listed country.

The Examiner advised that Figures 4 and 5 should be designated by the legend "Prior Art". A replacement sheet of drawings is submitted herewith with Figures 4 and 5 designed "Prior Art". The Examiner also objected to Figure 2 as including an incorrect reference numeral 26. Moreover, the Examiner objected to the drawings as failing to

show the fasteners referenced in claim 3. Figure 2 has been replaced with a corrected Figure 2 that schematically illustrated threaded fasteners and corrects the lead line for reference number 26. No new matter has been added as no more is illustrated than that which was described in the original disclosure.

The Examiner objected that the title of the invention was not descriptive. The title suggested by the Examiner has been adopted above.

The Examiner objected that claims 1 and 3 use the term "substantially". It is believed the Examiner intended to refer in the rejection statement to claims 1 and 2. In this regard it is respectfully submitted that the term "substantially" is commonly used to mean "effectively". However, in view of the Examiner's objection, the term "substantially" has been deleted.

Original claims 1-3 were rejected under 35 USC 103(a) as unpatentable over Brundage in view of Miller. Applicant respectfully traverses this rejection.

The Examiner asserts that Brundage teaches the structure claimed except the provision of a rib that partitions at least one of the inlet and outlet ports. Applicant respectfully disagrees. In accordance with the invention as defined in claim 1, the pump cover is directly fastened to the pump plate on the opposite side of the pump element and covers the other end side of the pump element and the outer periphery of the pump element in the radial direction thereof. Because according to the invention the cover is directly fastened to the pump plate, there is potential for warpage of the pump plate. It is for this reason that, according to the invention, a rib is provided to partition at least one of the inlet and outlet ports. The combination recited in claim 1 is not anticipated nor rendered obvious by Brundage.

In this regard, Brundage does not teach a cover directly fastened to the pump plate on the opposite side of the pump element. Rather, Brundage's cover is coupled to

the pump plate and housing through a spacer portion 16. As a consequence, Brundage increases the number of parts and increases the complexity and cost of manufacture.

The Examiner asserts that although Brundage teaches the provision of a spacer rather than a cover covering an outer periphery of the pump element, it would be obvious to integrate the elements of Brundage. Applicant respectfully but strongly disagrees.

Brundage does not simply teach a spacer interposed between the cover and the housing. Rather, Brundage teaches the provision of bi-metallic plates 52 and 54 on each axial side of the spacer, bi-metallic plate 54 being disposed between the spacer and the end cover and bi-metallic plate 52 being provided between the spacer and the housing. It is clearly understood from Brundage's disclosure that the bi-metallic plates 52,54 are an important feature of the Brundage invention. Therefore, it is respectfully submitted that it would be unobvious, without the benefit of knowledge of applicant's disclosure, to redesign Brundage to eliminate, e.g., his bi-metallic plate 54 and spacer 16 and reconfigure his cover so as to envelop the pump element. Such a modification of Brundage is not simply a "obvious" integration of parts, but rather involves a redesign of Brundage that would eliminate a bi-metallic plate and would thus be contrary to Brundage's disclosed invention. It is further respectfully submitted that such an integration of the cover and spacer would not obviously be undertaken because of the warpage problem resulting from the direct attachment of the cover to the housing through the plate. It is to solve that warpage problem that applicant has proposed the inclusion of a rib as claimed. Without hindsight knowledge of applicant's solution to the warpage problem, the modification of Brundage proposed by the Examiner would not be undertaken.

The Examiner has cited the secondary reference to Miller as allegedly teaching a rib as claimed. However, applicant claims more than simply a rib in the pump plate. It is further recited in claim 1 that the pump plate is imperforate between the inlet/outlet

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ports and the shaft hole. If the Miller pump plate were incorporated in Brundage, due to the presence of slots or grooves 87,92, the plate would not be imperforate between the inlet and outlet ports and the shaft hole and, therefore, claim 1 would still not be anticipated nor obvious. The secondary reference also fails to overcome the deficiencies of Brundage with respect to the pump cover configuration. Indeed, Miller does not teach or in any way suggest an assembly wherein a pump cover is secured via the pump plate to the housing and envelops the pump element.

For all the reasons advanced above, even if the prior art could be combined as the Examiner has suggested, the invention claimed by applicant would still not be anticipated nor obvious.

Reconsideration and withdrawal of the Examiner's prior art rejection are solicited.

All objections and rejections having been addressed, it is respectfully submitted that the present application is in condition for allowance and an early Notice to that effect is earnestly solicited.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: 

Michelle N. Lester
Reg. No. 32,331

MNL:slj
901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100